

OFFICIAL GAZETTE

GOVERNMENT OF GOA

GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

Notification

7-6-88/LA

The Indian Forest (Goa Amendment) Act, 1988 (Goa Act No. 15 of 1989) which has been passed by the Legislative Assembly of Goa on 12-1-1988 and assented to by the President of India on 5-7-1989, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 17th July, 1989.

The Indian Forest (Goa Amendment) Act, 1988
(Goa Act No. 15 of 1989) [5-7-1989]

AN
ACT

further to amend the Indian Forest Act, 1927.

Be it enacted by the Legislative Assembly of Goa in the Thirty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Indian Forest (Goa Amendment) Act, 1988.

(2) It shall come into force at once.

2. *Amendment of section 41.*—In the Indian Forest Act, 1927 (Central Act 16 of 1927) (hereinafter referred to as the "principal Act") in section 41,—

(i) in clause (h), after the words "sawpits", the words "saw mills and sawing contrivances" shall be inserted;

(ii) after clause (h), the following clause, shall be inserted, namely:—

"(ha.) — regulating by grant of licences within specified limits, the converting or cutting of timber in a saw mill and sawing contrivances and prescribe fees and conditions subject to which such licences may be granted".

3. *Amendment of section 42.*—In the principal Act, in section 42, for the words "six months" and "five hundred rupees", the words "one year" and "one thousand rupees", shall be substituted, respectively.

4. *Amendment of section 51.*—In section 51 of the principal Act,—

(i) in sub-section (1), after clause (d), the following clause shall be inserted, namely:—

"(e) any other matter which is to be, or may be, prescribed or in respect of which provision is to be or may be, made by rules";

(ii) in sub-section (2), for the words "six months" and "five hundred rupees", the words "one year" and "one thousand rupees" shall be substituted, respectively.

5. *Amendment of section 52.*—In the principal Act, in section 52,—

(i) in sub-section (1), for the words "or cattle" the figures and words, "cattle, vehicles or any contrivances used" shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted namely:—

"(1A) Any Forest Officer or police officer may, if he has reason to believe that a vehicle or cart has been or is being used for the transport of forest produce in respect of which there is a reason to believe that a forest offence has been or is being committed, require the driver or other person in charge of such vehicle or cart to stop the vehicle or cart and cause it to remain stationery as long as may reasonably be necessary to examine the contents in the vehicle or cart and inspect all records relating to the forest produce carried, which are in the possession of such driver or other person in charge of the vehicle or cart or any other person in the vehicle or cart";

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every officer seizing any property under this section, shall place on such property or the receptacle of vehicle (if any) in which it is contained, a mark indicating that the same has been so seized and make a report of such seizure.

(a) where the offence on account of which the seizure has been made, is in respect of

timber, firewood, charcoal or any forest produce which is the property of Government, to the concerned authorised officer under section 61A; and

(b) in other cases, to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his superior officer.

6. *Amendment of section 53.*—In section 53 of the principal Act, for the words and figures “or cattle under section 52, may release”, the words, figures and letters “vehicle, cattle, or any other contrivance under section 52, may, subject to the provision of section 61G release” shall be substituted.

7. *Amendment of section 56.*—In section 56 of the principal Act,—

(i) for the words “has been confiscated”, the words “has been forfeited” shall be substituted;

(ii) for the words “in any other case, may be disposed”, the words, figures and letters “in any other case may, subject to provisions of section 61G, be disposed” shall be substituted.

8. *Amendment of section 57.*—In section 57 of the principal Act,—

(i) after the words “that an offence has been committed,” the words, figures and letters “subject to the provisions of section 61G”, shall be inserted;

(ii) for the words “to be confiscated”, the words and figures “to be forfeited to the Government together with tools, boats, vehicles, carts or cattle and other articles used in committing the offence” shall be substituted;

(iii) for the words “one month”, the figures and words “45 days” shall be substituted.

9. *Amendment of section 58.*—For section 58 of the principal Act, the following section shall be substituted, namely:—

“58. *Procedure as to perishable property seized under section 52.*—The Forest officer who made the seizure under section 52 may, notwithstanding anything contained in this Act or any other law, sell the property if it is subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold and shall report every such sale to his superior officer”.

10. *Amendment of section 59.*—In section 59 of the principal Act, for the words “one month”, the words and figures “45 days” shall be substituted.

11. *Amendment of section 60.*—In section 60 of the principal Act, for the word “confiscation”, the word “forfeiture” shall be substituted.

12. *Amendment of section 61.*—In section 61 of the principal Act, for the words and figures “under section 52”, the words and figures “under section 52 which is not the property of the Government and the withdrawal of any charge made in respect of such property”, shall be substituted.

13. *Insertion of new sections 61A, 61B, 61C, 61D, 61E, 61F and 61G.*—After section 61 of the principal Act, the following sections shall be inserted, namely:—

“61A. *Confiscation by Forest Officer in certain cases.*—(1) Notwithstanding anything contained in the foregoing provisions of this chapter or any other law for the time being in force, where a forest offence is believed to have been committed in respect of forest produce which is the property of the Government, the officer seizing the property under sub-section (1) of section 52 shall, without any unreasonable delay, produce it, together with all tools, ropes, chains, boats, vehicles, carts and cattle used in committing such offence before an officer authorised by the Government in this behalf, by notification in the Official Gazette, not being below the rank of an Assistant Conservator of Forest (hereinafter referred to as the “authorised officer”).

(2) Where an authorised officer seizes under sub-section (1) of section 52, any forest produce which is the property of the Government or any such property is produced before the authorised officer under sub-section (1) and once he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of the property so seized together with all tools, ropes, chains, boats, vehicles, carts, cattle, and other contrivances used in the commission of such offence.

(3) Where the authorised officer, after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may, order the confiscated property or any part thereof to be sold by public auction.

(4) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of such auction or other incidental expenses relating thereto, shall, where the order of confiscation made under section 61A is set aside or annulled by an order under section 61C or 61D, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

61B. *Issue of showcause notice before confiscation under section 61A.*—(1) No order confiscating any forest produce or tools, ropes, chains, boats, vehicles, carts, cattle or any contrivances shall be made under section 61A except after notice in writing to the person from whom it was seized and considering his objections, if any:

Provided that, no order confiscating a motor vehicle shall be made except, after giving a notice in writing to the registered owner thereof, if in

the opinion of the authorised officer it is practicable to do so and considering his objections, if any.

(2) Without prejudice to the provisions of sub-section (1), no order shall be made under section 61A, if the owner of the tools, ropes, chains, boats, vehicles, carts, cattle or any other contrivance, proves to the satisfaction of the authorised officer that it was used in carrying forest produce without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, rope, chain, boat, vehicle, cart and cattle or any other contrivance and that each of them has taken all reasonable and necessary precautions against such use.

61C. Revision. — Any Forest Officer not below the rank of Deputy Conservator of Forest specially empowered by the Government in this behalf, by notification in the Official Gazette, may, before the expiry of ninety days from the date of the order of the authorised officer under section 61A, give notice and call for and examine the records of that order and may make such enquiry or cause such enquiry to be made and may pass such order as he deems fit:

Provided that, no such order prejudicial to a person shall be passed under this section without giving him, an opportunity of being heard.

61D. Appeal. — (1) Any person aggrieved by any order passed under section 41, 61A or section 61C, may within forty five days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity of being heard to the appellant and the authorised officer or the officer specially empowered under section 61C, as the case may be, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(2) An order of the Sessions Judge under sub-section (1) shall be final and shall not be questioned in any Court of law.

61E. Order of confiscation or seizure not to interfere with other punishment. — The order of any confiscation or seizure under section 41, 61A or section 61C or section 61D shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

61F. Property confiscated when to vest in Government. — When an order for confiscation or seizure of any property has been passed under section 41, 61A or 61C or 61D and such order has become final in respect of the whole or any portion of it or if it has been sold under sub-section (3) of section 61A, the sale proceeds thereof, as the case may be, shall vest in the Government free from all encumbrances.

61G. Bar of jurisdiction in certain cases. — Whenever any forest produce belonging to the Government together with any tool, rope, chain, boat, vehicle, cart, cattle or any other contrivance

used in committing any offences is seized under sub-section (1) of section 52, the authorised officer under section 61A or the officer specially empowered under section 61C or the Sessions Judge hearing an appeal under section 61D shall have and, notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), or in any other law for the time being in force, any other officer, court, tribunal or authority shall not have jurisdiction to make an order with regard to the custody, possession, delivery or distribution of such property".

14. Amendment of section 62. — For section 62 of the principal Act, the following section shall be substituted, namely: —

"62. Punishment for wrongful seizure. — (1) Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property liable to forfeiture under this Act, shall on conviction be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(2) Any fine so imposed or any portion thereof shall, if the convicting Court so directs, be given as compensation to the person aggrieved by such seizure".

15. Amendment of section 68. — In section 68 of the principal Act, —

(i) in sub-section (1), after the words and figures "The State Government may," the words and figures "subject to such conditions as may be specified," shall be inserted;

(ii) in clause (a), for the words and figures "any forest offence," the words and figures "any forest offence under this Act," shall be substituted and after the words "a sum of money," the words and figures "not exceeding ten thousand rupees," shall be inserted;

(iii) in clause (b), after the words "liable to confiscation", the words, figures and letters "liable to confiscation subject to provision of section 61G" shall be inserted;

(iv) in sub-section (3), for the word "fifty" the words "ten thousand" shall be substituted.

16. Repeal and saving. — (1) The Indian Forest (Goa Amendment) Ordinance, 1987 (Ordinance No. 1 of 1987), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or taken.

Secretariat
Annexe, Panaji
Goa.

Dated 17-7-1989.

(B. S. SUBBANNA)
Secretary to the Government of Goa
Law Department (Legal Affairs)

Legislature Department

LA/B/1617/1989

The following Report of the Select Committee on Bill No. 9 of 1987 — The Goa Administration of Evacuee Property (Amendment) Bill, 1987 along with the Bill as amended by the Select Committee which was presented to the Legislative Assembly of Goa on 7th August, 1989 is hereby published for general information in Pursuance of the Provisions of Rule - 229 of the Rules of Procedure and Conduct of Business of Legislative Assembly.

Panaji, 8th August, 1989.

(Bill No. 9 of 1987)

A
BILL

to confer tenancy right on the tenants of agricultural lands which are evacuee properties and to amend the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 and the Goa, Daman and Diu Agricultural Tenancy Act, 1964.

COMPOSITION OF THE SELECT COMMITTEE

CHAIRMAN

1. Shri Pratapsingh R. Rane — Chief Minister.

MEMBERS

2. Shri Harish P. N. Zantye — Minister for Social Welfare.
3. Shri Subhash A. Shirodkar.
(Appointed as Minister of State on 16-9-1987).
4. Shri R. D. Khalap — Leader of Opposition.
5. Shri Uday L. Bhembre.
6. Shri Ashok T. Naik.
7. Dr. Kashinath G. Jhalmi.
8. Smt. Phylis Faria.

SECRETARIAT

1. Shri M. M. Naik — Secretary, Legislature.
2. Shri P. N. Revankar — Under Secretary, Legislature.
3. Shri U. M. Desai — Supdt. Legislature Department.

GOVERNMENT REPRESENTATIVES

1. Shri P. V. Jayakrishnan — Chief Secretary.
2. Shri B. S. Subbanna — Law Secretary.
3. Shri P. V. Kadnekar — Custodian of Evacuee Property.

Report of the Select Committee

I, the Chairman of the Select Committee to which Bill No. 9 of 1987 (a Bill to confer tenancy right on the tenants of agricultural lands which are evacuee

properties and to amend the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 and the Goa, Daman and Diu Agricultural Tenancy Act, 1964 therefore and for certain other matters), was referred, having been authorised by the Committee to submit the report on its behalf present its report with the Bill as amended by the Committee annexed hereto.

2. The Bill was introduced in the Legislative Assembly on 16th July, 1987, and was referred to Select Committee on 20th July, 1987.

3. The Committee held in all 2 sittings, viz on 4th November, 1987 and on 28th July, 1989. After holding the discussion in detail in these meetings the Committee decided to confer the tenancy rights on those tenants of the agricultural lands whose tenancies were created by the evacuee, and not on lessees whose leases are created by the custodian. There was a suggestion in the meeting held on 28/7/89 that the Mundkar Act may also be made applicable in a similar way to the mundkars of evacuee property to which Government may bring suitable amendment to the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975.

4. The year of the Bill is changed to bring it in conformity with the year of passing of this Bill.

5. As decided by the Committee the words "by the evacuee" have been added in item "(ff)" under Clause 2 of the Goa Administration of Evacuee Property (Amendment) Bill, 1987 after the words "or in writing" in line 2 of item (ff).

This report was considered and adopted by the Committee in its meeting held on 28th July, 1989.

Assembly Hall, PRATAP Singh RAOJI RANE
Panaji. Chief Minister
28th July, 1989. Chairman

(Note. — Deletions made by the Select Committee are shown in square brackets, and additions and substitutions made are underlined).

The Goa Administration of Evacuee Property
(Amendment) Bill, [1987] 1989

(Bill No. 9 of 1987)

A
BILL

to confer tenancy right on the tenants of agricultural lands which are evacuee properties and to amend the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 and the Goa, Daman and Diu Agricultural Tenancy Act, 1964 therefor and for certain other matters.

Be it enacted by the Legislative Assembly of Goa in the [Thirty-eighth] Fortieth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Administration of Evacuee Property (Amendment) Act, [1987] 1989.

(2) It shall come into force at once.

2. *Amendment of section 2.* — In section 2 of the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 (Act 6 of 1964) (hereinafter referred to as the principal Act), —

(i) clause (a) shall be renumbered as clause (aaa) and before clause (aaa) as so renumbered, the following clauses shall be inserted, namely: —

“(a) “agriculture” includes horticulture and raising of food crops, grass and garden produce but does not include allied pursuits.

(aa) “allied pursuits” means rearing or maintaining plough bulls, breeding of livestock, dairy farming, poultry farming, grazing on grounds reserved for the purpose and such other pursuits connected with agriculture, as may be prescribed;”;

(ii) after clause (f), the following clause shall be inserted, namely: —

“(ff) “lease” means a transfer of a right to enjoy land, made orally or in writing, by the evacuee for a specified, or unspecified period, and in consideration of rent;”;

(iii) after clause (k), the following clauses shall be inserted, namely: —

“(kk) “rent” means any consideration in money or kind or both, paid or payable by a tenant on account of the use or occupation of the land held by him but shall not include the rendering of any personal service or labour;

(kkk) “tenancy” means the relationship existing between the tenant and the Custodian;

(kkkk) “tenant” means a person who on or after the date of commencement of the Goa Administration of Evacuee Property (Amendment) Act, 1987 holds land on lease and cultivates it personally but does not include a person who holds land on lease for the purpose of plucking the fruits only;”.

3. *Substitution of section 3.* — For section 3 of the principal Act, the following section shall be substituted, namely: —

“3. *Act to override other laws.* — (1) On and from the date of coming into force of the Goa Administration of Evacuee Property (Amendment) Act, 1987, the provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964), for the time being in force, shall apply in respect of agricultural land and tenancies created by the Custodian.

(2) The provisions of this section shall, save as otherwise expressly provided, have effect notwithstanding anything to the contrary contained in any instrument having effect by virtue of any such law.”.

4. *Amendment of section 8.* — In section 8 of the principal Act, —

(i) In sub-section (1), for the words “Subject to the provisions of any rules” the words

“Save as otherwise expressly provided and subject to the provision of any rules” shall be substituted;

(ii) In sub-section (2), after clause (m), the following clause shall be inserted, namely: —

“(n) invest any money held by him in such securities as may be prescribed:”.

5. *Amendment of section 10.* — In sub-section (1) of section 10 of the principal Act, after the words “Notwithstanding anything contained in any other law for the time being in force”, the words and figure “and save as provided in section 3” shall be inserted.

6. *Amendment of section 15.* — In sub-section (1) of section 15 of the principal Act, for the words “Subject to such rules”, the words and figure “Save as provided under section 3 and subject to such rules” shall be substituted.

7. *Amendment of section 23.* — In section 23 of the principal Act, for the words “Any person who fails to comply with”, the words and figure “Save as provided under section 3, any person who fails to comply with” shall be substituted.

8. *Amendment of section 44.* — In section 44 of the principal Act, for the words “Government may”, the words and figures “Save as provided under section 3, the Government may” shall be substituted.

9. *Amendment of section 46.* — In sub-section (2) of section 46 of the principal Act, after clause (r), the following clause shall be inserted, namely: —

“(rr) the securities in which the Custodian may invest any moneys held by him;”

10. *Amendment of section 56 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964.* — In sub-section (1) of section 56 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964), the words and figures “or lands vested in the Custodian under the Goa, Daman and Diu Administration of Evacuee Property Act, 1964” shall be omitted.

LA/B/1617/1989

The following Report of the Select Committee on Bill No. 22 of 1988 — The Goa Plots and Flats Ownership (Regulation) Bill, 1988 along with the Bill as amended by the Select Committee which was presented to the Legislative Assembly of Goa on 7th August, 1989 is hereby published for general information in Pursuance of the Provisions of Rule - 229 of the Rules of Procedure and Conduct of Business of Legislative Assembly.

Panaji, 8th August, 1989.

(Bill No. 22 of 1988)

A

BILL

to regulate the development of plots and construction of buildings for housing purposes and sale, management and transfer of plots and flats on ownership basis in the State of Goa.

COMPOSITION OF THE SELECT COMMITTEE

CHAIRMAN

Dr. Luis P. Barbosa — Minister for Urban Development

MEMBERS

1. Shri R. D. Khalap — Leader of Opposition
2. Shri Uday L. Bhembre
3. Shri V. P. Gaonkar
4. Shri J. B. Gonsalves
5. Shri Simon D'Souza
6. Shri C. S. Diukar

SECRETARIAT

1. Shri M. M. Naik — Secretary, Legislature
2. Shri P. N. Revankar — Under Secretary, Legislature
3. Shri A. M. Amonkar — Superintendent.

GOVERNMENT REPRESENTATIVES

1. Shri R. S. Sethi — Development Commissioner
2. Shri B. S. Subbanna — Secretary, Law
3. Shri P. V. Kadnekar — Under Secretary (Drafting)
4. Shri D. V. Sathe — Under Secretary (PW & UD)
5. Shri V. S. Hardikar — Asstt. Registrar of Co-operatives

Report of the Select Committee

I, the Chairman of the Select Committee to which the Goa Plots & Flats Ownership (Regulation) Bill, 1988 was referred, having been authorised by the Committee to submit the report on its behalf, present its report with the Bill as amended by the Committee annexed hereto.

The Bill was introduced in the Goa Legislative Assembly on 22-3-88 and was referred to the Select Committee on 28-3-88.

The Committee held seven sittings. In its preliminary meeting held on 9-6-88, the Committee decided to issue press note in all local newspapers asking for the public opinion on the said Bill. It was also arranged to make an announcement in this regard on All India Radio, Panaji. The suggestions from all the Members of the Select Committee and other Members of the Assembly were invited. Also suggestions from the Builders' Associations were invited. In the subsequent meetings, various suggestions

made by Builders' Associations, Co-op. Forums, LIC and individuals have been scrutinised and examined by the Committee.

The Committee while analysing the clause by clause of the Bill have taken into consideration various aspects of suggestions and accordingly Draft Report is prepared.

Title and Preamble

The Committee decided to restrict the Bill for the purpose of Regulation of Flats and to delete the Regulation of Plots and development of plots from the purview of this Bill. Accordingly, the words 'plots' and "the development of plots" wherever they occurred have been deleted from the Bill. The year of the Bill is also changed as year 1989 to bring it in conformity with the year of passing.

Clause 3

In Clause 3 (2) (iv), for furnishing a Bank Guarantee equal to 25% of the estimated cost of the building to be given by the Builder as Security, the Committee decided that it should be reduced to 10% of the estimated cost of the proposed building subject to maximum of Rs. 10 lakhs.

Since it was decided to delete the regulation of development of plots from the purview of this Bill, the Committee decided to delete Sub-Clause (3) of Clause 3 of the Bill.

Clause 5

The Committee also decided to delete Clause 5 (3) as the development of plots have been deleted from the purview of this Bill.

Clause 8

In Clause 8 (ii), for the words "prescribed authority" the Committee decided to substitute the words "competent authority" as it was found necessary that conferment of such power on the Competent Authority would be justifiable instead of creating a separate authority.

Clause 9

In Clause 9 (i), for the word "compensation", the Committee decided to substitute the words "The amount due with interest of 10% and compensation as may be determined by the Competent Authority which shall however not exceed 50% of the agreed cost" to safeguard the interest of the flat owners and to avoid malpractices.

Clause 12

The Committee decided to delete Sub-clause (6) of Clause 12 as development of plots have been deleted from the purview of this Bill.

Clause 16

The Committee decided to delete proviso to Clause 16 (i) as it will put embargo to book another flat if one flat is registered in the name of any one of the members of the family.

Clause 21

The Committee decided to delete sub-clause (1) of Clause 21, recasting the heading of the said

clause as "21 Submission of Audited Account by the Promoter" and the existing sub-clause is brought in conformity with the provision of the said clause and decided that submission of audited account to be effected to the Competent Authority as a result, after the expression "in the manner prescribed" the words "to the Competent Authority" have been added.

Clause 31

The Committee decided to exempt the construction of buildings by Planning and Development Authority established under Goa, Daman and Diu Town and Country Planning Act, 1974 (Act No. 21 of 1975).

This report was considered and adopted by the Committee.

Assembly Hall,
Panaji,
27th July, 1989.

DR. LUIS PROTO BARBOSA
Minister for Urban Development
Chairman

(Note.— Deletions made by the Select Committee are shown in square brackets and additions and substitutions made are underlined).

The Goa [Plots and] Flats Ownerships Regulation Bill, [1988] 1989

(Bill No. 22 of 1988)

A BILL

to regulate the [development of plots and] construction of buildings for housing purposes and sale, management and transfer of [plots and] flats on ownership basis in the State of Goa.

Whereas there has been a tremendous increase in [the development of plots for housing purposes and] building activities, due to the acute shortage of housing in the several areas of the State of Goa;

And whereas the absence of suitable legislation has led to various mal-practices, abuse in the [sale of plots for housing purposes and construction,] sale and purchase of ownership flats in the State of Goa;

And whereas it has been found necessary and expedient to make provisions for the regulation of [the development of plots and] construction of buildings for housing purposes, and sale, management and transfer of [plots and] flats on ownership basis.

Be it enacted by the Legislative Assembly of Goa in the [Thirty-ninth] Fortieth Year of the Republic of India as follows:

1. *Short title, extent and commencement.* — (1) This Act may be called the Goa [Plots and] Flats Ownership Regulation Act, [1988] 1989.

(2) It extends to the whole of the State of Goa.

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into

force in such areas and on such dates as the Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions of the Act.

2. *Definitions.* — In this Act, unless the context otherwise requires, —

(a) "advertisement" means words, letters, model, sign, placard, board, notice, device or representation in any manner whatsoever, wholly or in part, intended for the purpose of advertisement, announcement or anything adapted for the display or advertisement;

(b) "apartment" means a part of any property, intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors or any part or parts thereof, in a multi-storeyed building to be used for residence or office or for the practice of any profession, or for such other type of independent use as may be prescribed and with a direct exit to a public street, road or highway, or to a common area leading to such street, road or highway, and includes any garage or room (whether or not adjacent to the multistoreyed building in which such apartment is located) provided by the promoter for use by the owner of such apartment for parking any vehicle or, as the case may be, for the residence of any domestic aide employed in such apartment;

(c) "building of flats" means a building containing four or more flats or two or more buildings each containing two or more flats comprising a part of the property;

(d) "competent authority" means the officer appointed by the Government by notification in the Official Gazette, to exercise and perform all or any of the powers and functions of the competent authority under this Act and the rules made thereunder;

(e) "common areas and facilities" means and includes: —

(i) the land on which the building is located;

(ii) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes and entrances and exists of the building;

(iii) the basements, cellars, yards, gardens, parking areas and storage spaces;

(iv) the premises for the lodging of janitors;

(v) installation of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerators;

(vi) the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;

(vii) stilt portion;

(viii) open spaces;

(ix) space below the staircase or similar spaces under the overhead watertank, etc.;

(x) common lavatories and common bath rooms and passages leading to them;

(xi) office premises, pump room, electric sub-station, etc.;

(xii) such other community or commercial facilities as are provided under the agreement under section 7 of this Act;

(xiii) all other parts of the property necessary for maintenance and safety of the property.

(f) construction of a block or building of flats includes conversion of a building or part thereof into flats;

(g) "Government" means the Government of Goa;

(h) "flats" means a separate and self contained set of premises used or intended to be used for residence or office, showroom or shop or godown and includes a garage, premises forming part of a building and an apartment.

Explanation. — Notwithstanding that provision is made for sanitary, washing, bathing or other conveniences as common to two or more sets of premises, the premises shall be deemed to be self contained;

(i) "plots" means a continuous portion of land held in one ownership;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "promoter" means a person [who develops or causes to be developed a "plot" for sale for housing purposes, or] who constructs or causes to be constructed a block or building of flats for the purpose of selling some or all of them to other persons or to a company, cooperative society or other association of persons, and includes his assignees, and where the person who [develops the plot or] builds the buildings with flats and the person who sells are different persons, the term includes both;

(l) "Official Gazette" means the Official Gazette of the Government;

(m) "Registrar" means a person appointed to be the Registrar of Cooperative Societies under the Maharashtra Co-operative Societies Act, 1960 as applied to the State of Goa.

3. Promoter to obtain licence before starting [development of plots or] construction of flats.—(1) Notwithstanding anything contained in any other law, a promoter who intends [to develop a plot for housing purposes or] to construct a building of flats shall make an application to the competent authority for the grant of licence to [develop or] build the same, in such form and pay such fees as may be prescribed. The application shall be accompanied by an income tax clearance certificate.

(2) The grant of a licence to any person for construction of a building of flats shall be subject to the following conditions:—

(i) he must possess a clear title to the land on which apartments are proposed to be constructed and produce documentary evidence to the prescribed authority in support thereof;

(ii) the plan for construction of flats should be in accordance with the provisions of the

relevant laws, rules, orders or of the Master or Zonal Development Plan as evidenced by written permission/licence/no objection certificate from competent authority or authorities;

(iii) in case the land is held on lease-hold basis, clearance from the lessor for construction of apartments must be produced;

(iv) he should furnish a bank guarantee equal to [25%] 10% of the estimated cost of the proposed building [of] or apartments subject to maximum of Rs. 10 lakhs as security for the due performance of the obligations under this Act and the rules framed thereunder and the agreement to be entered into with the prospective buyers of apartments.

[(3) The grant of licence to any person for development of plots for housing purposes shall be subject to the following conditions:—

(i) he must possess clear title to the plot of land which he is developing for housing purpose and produce documentary evidence to the prescribed authority in support thereof;

(ii) clearance of the competent authority under the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975).]

4. Competent Authority empowered to conduct enquiry before grant of licence and fix the period of validity of licence.— (1) On receipt of the application, the competent authority after conducting such enquiry as he deems fit, by an order in writing shall—

(a) grant a licence in the prescribed form; or

(b) refuse to grant a licence by means of a speaking order after affording the applicant an opportunity of being heard.

(2) The licence so granted shall be valid for such period as may be allowed by the competent authority after taking into account the scheme of construction submitted by the promoter, and will be renewable from time to time for a period of one year on payment of the prescribed fee.

5. General Liabilities of Promoter.— (1) Notwithstanding anything contained in any other law, a promoter who intends to [develop a plot of land for housing purposes or] construct a block or building of flats, all or some of which are to be taken or are taken on ownership basis, shall in all transactions with persons intending to take or taking one or more of such flats, be liable to give or produce, or cause to be given or produced, the information and the documents hereinafter in this section mentioned.

(2) A promoter, who constructs or intends to construct such block or building of flats, shall—

(a) make full and true disclosure of the nature of his title to the land on which the flats are constructed, or are to be constructed, such title to the land as aforesaid having been duly certified by an Advocate of not less than three years standing;

(b) make full and true disclosure of all encumbrances on such land, including any right, title,

interest or claim of any party in or over such land;

(c) give inspection on seven days' notice or demand, of the plans and specifications of the building built or to be built on the land, such plans and specifications having been approved by the local authority which he is required so to do under any law for the time being in force;

(d) disclose the nature of fixtures, fittings and amenities (including the provision for one or more lifts) provided or to be provided;

(e) disclose on reasonable notice or demand, if the promoter is himself the builder, the prescribed particulars as respects the design and the materials to be used in the construction of the building, and if the promoter is not himself the builder, disclose on such notice or demand, all agreements (and where there is no written agreement, the details of all agreements) entered into by him with the architects and contractors regarding the design, materials and construction of the building;

(f) specify in writing the date by which possession of the flat is to be handed over to the purchaser;

(g) prepare and maintain a list of flats with their numbers already taken or agreed to be taken, and the names and addresses of the parties, and the price charged or agreed to be charged therefor, and the terms and conditions, if any, on which the flats are taken or agreed to be taken;

(h) state in writing, the precise nature of the organisation of persons to be constituted and to which the title is to be passed, and the terms and conditions governing such organisation of persons who have taken or are to take the flats;

(i) not allow persons to enter into possession until a completion certificate, where such certificate is required to be given under any law, is duly given by the local authority;

(j) make a full and true disclosure of all outgoings (including ground rent or any municipal or other local taxes, taxes on income, water charges and electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any);

(k) make a full and true disclosure of such other information and documents, in such manner as may be prescribed, and give on demand true copies of such of the documents referred to in any of the clauses of this sub-section as may be prescribed at a reasonable charge therefor;

(l) give estimated cost of the building of flats proposed to be constructed;

[(3) A promoter who intends to develop a plot of land for housing purpose shall —

(a) make full and true disclosure of the nature of his title to the land which is proposed to be developed for housing purposes;

(b) make full and true disclosure of all encumbrances, if any, on such plot including any right, title, interest or claim of any party in or over such plot of land;

(c) specify in writing the date by which the plot in question is expected to be fully developed for the housing purposes;

(d) make true indication of the terms and conditions, if any, on which the plot of land is proposed to be sold including the price charged/ /agreed to be charged therefor;

(e) make full and true disclosure of such other information and documents in such manner as may be prescribed and give on demand true copies of such documents.]

6. *Liability of a promoter for [carrying out development of plot] construction of building in accordance with the agreement entered into with the prospective buyers of [land or] flats [and to pay proportionate development charges].* — (1) A promoter who has been granted a licence for [the development of a plot for housing purposes or] construction of building of flats, all or some of which are meant for sale and who has entered into agreement with the prospective buyers of such [plots] flats shall —

(a) carry out [and complete] development of land [or] for construction of the flats in accordance with the requirements of the prospective buyers of [the plot of land or] flats;

(b) pay proportionate development charges if the main lines of roads, drainage, sewerage, telegraph lines, water supply and electricity are to be laid out and constructed by the Government or any other local authority. The proportion in which and the time within which such payments are to be made shall be determined by the competent authority;

(c) be responsible for the maintenance and up-keep of all roads, open spaces, drainage and other public health services till such time the [plots so developed or] flats so constructed are transferred to the prospective buyers of such [plots or] flats and all the roads, open spaces, drainage and other common areas are transferred without any further payment to the cooperative society for maintenance and up-keep as soon as the cooperative society is formed [by] of the said owners;

(d) construct at his own cost, or get constructed by any other institution or individual at its cost, schools, hospitals, community centres and other community buildings on the lands set apart for this purpose, or to transfer to the Government at any time, if so desired by the Government, free of cost the land set apart for schools, hospitals, community centres and community buildings, in which case the Government shall be at liberty to transfer such land to any person or institution including a local authority on such terms and conditions as it may deem fit;

(e) permit the competent authority or any other officer authorised by him to inspect the execution of the lay out and the development works in the colony and to carry out all directions issued by him for ensuring due compliance of the execution of the layout and development works in accordance with the licence granted:

Provided that, if the competent authority, having regard to the amenities which exist or are proposed to be provided in the locality, is of the opinion that it is not necessary or possible to provide

one or more such amenities, may exempt the licencees from providing such amenities either wholly or in part.

7. *Promoter before accepting advance payment or deposit to enter into agreement and agreement to be registered.*—Notwithstanding anything contained in any other law, a promoter who intends to construct or constructs a block or building of flats, all or some of which are to be taken or are taken on ownership basis, shall, before he accepts any sum of money as advance payment or deposit, which shall not be more than 20 per cent of the sale price execute an agreement in the form as may be prescribed for sale with each of such persons who are to take or have taken such flats, and shall cause its registration under the Registration Act, 1908 (Central Act 16 of 1908) before giving possession of the flats to the purchaser.

8. *Prospectus, advertisement or notice offering [plots or] flats for sale to be issued subject to certain conditions.*—No person shall issue a prospectus, advertisement or notice, offering or purporting to offer for sale any [plots or] flats or inviting the public to make deposits or advances unless the following conditions are fulfilled:

(i) The promoter must have obtained a licence under the Act for construction of apartments [or for development of plots] for sale to the public;

(ii) A copy of the prospectus, advertisement or notice should be delivered on or before its publication to the [prescribed authority] competent authority;

(iii) the prospectus, advertisement or notice should make full and true disclosure of the nature of the title of the promoter to the land, details of the proposed construction, designs, quality of materials to be used, the date by which possession will be handed over and such other matters as may be prescribed;

(iv) the prospectus, advertisement or notice must be made available for inspection, and indicate the place and time for inspection of documents, certificates from experts like architects, etc. mentioned in the prospectus;

(v) In case the prospectus, advertisement or notice makes a reference to the opinion of experts like architects, their prior consent therefor should be obtained and statement to that effect should be made in it.

9. *Persons liable to compensate affected persons for mis-statements in prospectus.*—(1) Where a prospectus, advertisement or notice invites persons to take flats [or plots] and to make advances or deposits therefor, the following persons shall be liable to pay [compensation] the amount due with interest of 10% and compensation as may be determine by the competent authority which shall however not exceed 50% of the agreed cost to every person who makes such advances or deposits on the faith of such prospectus, advertisement or notice for any loss or damage he may have sustained by reasons of any untrue statement included therein:

(a) The promoters if they are individuals;

(b) Every partner of the firm, if the promoter is a firm;

(c) If the promoter is a company, every person who is a Director of the company at the time of the issue of the prospectus, advertisement or notice.

(2) No person shall be liable under the above provisions if he proves—

(a) that having consented to become a Director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent;

(b) that the prospectus was issued without his knowledge or consent and that on becoming aware of its issue, he forthwith gave reasonable public notice that it was issued without his knowledge or consent;

(c) that after the issue of the prospectus and before any agreement was entered into with the buyers of [plots or] flats, he on becoming aware of any untrue statement therein, withdrew his consent to the prospectus and gave reasonable public notice of the withdrawal and of the reason therefor.

10. *Criminal liability of promoters etc. for mis-statement in prospectus.*—Where any prospectus, advertisement or notice issued at the commencement of this Act includes any untrue statement, every person who authorised the issue of the prospectus shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to rupees five thousand or with both unless he proves either that the statement was immaterial or that he had ground to believe, and did, upto the time of issue of the prospectus believe that the statement was true.

11. *Promoter to maintain separate account of sums taken as advance or deposit and to be trustee therefor and disburse them for which given.*—The promoter shall maintain a separate account in any bank of sums taken by him from persons intending to take or who have taken [plots or] flats, as advance or deposit, including any sums so taken towards the share capital for the formation of a co-operative society or a company or towards the outgoings (including ground rent if any, municipal or other local taxes, taxes on income, water charges, electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any); and he shall hold the said moneys for the purposes for which they were given and shall disburse the moneys for those purposes and shall on demand render full and true account of the transaction entered into by him to the flat takers or their organisation and shall on demand in writing by the competent authority within a month, make full and true disclosure of all transactions in respect of that account.

12. *Responsibility for payment of outgoing till property is transferred.*—(1) A promoter shall, while he is in possession, and where he collects from persons who have taken over [plots of land or] flats or are to take over [plots of land or] flats sums for the payment of outgoings, pay all out-goings (including ground rent, municipal or other local taxes, taxes on income, water charges, electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any) until he transfers the property to the persons taking over [the plots of land or] flats or to the organisation of any such persons.

(2) The promoter shall render full and true account of the amounts collected by him and the payments of outgoings effected by him before transfer of the [plots of land or] flats to the [plots of land or] flat takers or their organisation.

(3) The promoter shall not collect any amounts towards outgoing of the property once an organisation of the [plots of land or] flat takers is registered.

(4) The promoter shall present the statement of municipal taxes within three days from the date of its receipt to the [plots of land or] flat takers or their organisation.

(5) Where there is a dispute as regards any defect in the building or material used, or any unauthorised change in the construction, or as to whether it is reasonably possible for the promoter to rectify any such defect or change, or as regards the amount of reasonable compensation payable in respect of any such defect or change which cannot be or is not, rectified by the promoter, the matter shall on payment of such fee as may be prescribed be referred for decision to the competent authority. The competent authority himself or through an official authorised by him, within a period of one year from the date of handing over possession shall, after inquiry, record his decision which shall be final.

[(6) After the specifications and area of the plots as approved for development by the Authority concerned are disclosed or furnished to the persons who agree to purchase the plots, the promoter shall not make any alterations in the specifications and area of the plots, or effect any change in the plots so agreed upon to be purchased by the prospective buyers of the plots.]

13. *After plans and specifications are disclosed, no alterations or additions are to be made without consent of persons who have agreed to take flats [plots of land] and defects noticed within a year to be rectified.* — (1) After the plans and specifications of the building as approved by the local authority as aforesaid are disclosed or furnished to the persons who agree to take the flat, the promoter shall not make —

(i) any alteration in the structure prescribed therein in respect of the flat which is agreed to be taken, without the previous consent in writing of that person;

(ii) make any other alterations in the structures of the building or construct any additional structures without the prior consent in writing of all the persons who have agreed to take the flats or their organisation.

(2) Subject to sub-section (1), the building shall be constructed and completed in accordance with the plans and specifications aforesaid, and if any defect in the building or material used, or if any unauthorised change in the construction is brought to the notice of the promoter within a period of one year from the date of handing over possession, it shall be rectified by the promoter within a period of six months without further charges from the persons who have agreed to take the flats, and in other cases such persons shall be entitled to receive reasonable compensation for such defects or change.

14. *Refund of amount paid with interest for failure to give possession within specified time or further time allowed.* — If —

(a) the promoter fails to give possession in accordance with the terms of his agreement of a [plot of land or] flat duly completed by the date specified, or any further date or dates agreed to by the parties; or

(b) the promoter for reasons beyond his control and of his agents, is unable to give possession of the [plot of land or] flat by the date specified, or the further agreed date and a period of three months thereafter or a further period of three months if those reasons still exist,

then in any such case the promoter shall be liable on demand (but without prejudice to any other remedies to which he may be liable) to refund the amount within a period of three months already received by him in respect of the [plots of land or] flat (with simple interest at twelve per cent per annum from the date he received the sums till the date the amounts and interest thereon is refunded), and the amounts and the interest shall be a charge on the land and the construction if any, thereon in which the [plot of land or] flat is or was to be [developed or] constructed, to the extent of the amount due, but subject to any prior encumbrances.

15. *No mortgage, etc., to be created without consent of parties after execution of agreement for sale.* — No promoter shall, after he executes an agreement to sell any [plot of land or] flat mortgage or create a charge on the [plot or] flat or the land without the previous consent of the persons who take or agree to take the [plot or] flats, and if any such mortgage or charge is made or created without such previous consent after the agreement referred to in section 7 is registered, it shall not affect the right and interest of such persons.

16. *Promoter to take steps for formation of Co-operative Society.* — (1) As soon as a minimum number of persons required to form a Co-operative Society have taken [plots or] flats, the promoter shall within the prescribed period submit an application to the Registrar for registration of the organisation of such persons as a Co-operative Society:

[Provided that a member shall not have any house, flat or other residential accommodation or plot of land in his name or in the name of his family members, such as wife, or husband, children within the Panchayat or Municipal limit in the area of operation of the society or company or in any other housing society or company registered in the State of Goa.]

(2) The promoter shall mention in his application for membership of a Co-operative Society the full particulars of the flats which have not been taken by anybody and the promoter shall furnish such information and submit such documents as may be required by the Registrar within a period of one month from the date of service of a notice to that effect on him by the Registrar.

(3) After submission of the proposal for registration to the Registrar, the promoter shall not sell, resell, let-out, sub-let, assign or dispose off any of the [plots of land or] flats without the prior written consent of the Registrar.

(4) Once the Co-operative Society has been registered the promoter shall not sell, resell, let-out, sub-let, assign or dispose off any of the unsold [plots of land or] flats without previous consent of the majority of the members, in the general body of the Co-operative Society.

(5) The promoter shall transfer all the roads, open spaces, drainage and other common areas to the Co-operative Society for maintenance and upkeep as soon as the Co-operative Society is formed. The ownership of all such roads, open spaces, drainage and other common areas shall thereafter vest in the Co-operative Society.

(6) The promoter shall hand over all the records pertaining to the formation and registration of the organisation to the Chairman or Secretary of the Co-operative Society within fifteen days from the date of first general body meeting of the society.

17. *Promoter to convey title, etc. and execute documents, according to agreement.*—A promoter shall take all necessary steps to complete his title and convey to the organisation of persons who take [plots of land or] flats, which is registered either as a Co-operative Society or as a company as aforesaid, or to an association of [plot-takers or] flat-takers his right, title and interest in the land and building and execute all relevant documents therefor in accordance with the agreement executed under section 7 and if no period for the execution of the conveyance is agreed upon, he shall execute the conveyance within the prescribed period and also deliver all documents of title relating to the property which may be in his possession or power.

Provided that when such conveyance is not executed within the aforesaid period, after expiry of the said period the conveyance of the property shall be deemed to have been effected in favour of the Co-operative Society.

18. *General liabilities of flat-taker.*—(1) Every person who has executed an agreement to take a [plot of land or] flat shall pay at the proper time and place the price, his proportionate share of the municipal taxes, water and electricity charges, ground rent (if any) and other public charges in accordance with his agreement with the promoter; and where a Co-operative Society of persons taking the [plots of land or] flats is to be constituted, co-operate in the formation of such society.

(2) Any person who has executed an agreement to take a [plot of land or] flat and who, without reasonable excuse, fails to comply with or contravenes the provisions of sub-section (1) shall, on conviction be punished with fine which may extend to two thousand rupees.

19. *Manager not to cut off, withhold, curtail or reduce essential supply or service.*—(1) No person, who is a promoter, or who is in charge of management or connected with the management of a block or building of flats, whether as member of a managing committee, director, secretary or otherwise or is responsible for the maintenance thereof (hereinafter in this section referred to as "the manager"), shall, without just and sufficient cause, either by himself or through any person, cut off, withhold, or in any manner curtail or reduce, any essential

supply or service enjoyed by the person who has taken a flat (or by any person in occupation thereof through or under him), in respect of the flat taken or agreed to be taken by him.

(2) The person who has taken or agreed to take the flat or the occupier may, if the manager has contravened the provisions of sub-section (1), make an application to the competent authority for a direction to restore such supply or service.

(3) If the competent authority on enquiry finds that the applicant or the persons through or under whom he is in occupation has been in enjoyment of the essential supply or services and that it was cut off or withheld or curtailed or reduced by the manager without just and sufficient cause, it shall make an order directing the manager to restore such supply or service before a date to be specified in the order.

(4) The manager who fails to restore the supply or services before the date so specified shall for each day during which the default continues thereafter be liable upon a further direction by the competent authority to that effect to fine which may extend to one hundred rupees.

(5) Any manager who contravenes the provisions of sub-section (1) shall, on conviction be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

(6) The offence under sub-section (5) shall be cognizable, and shall not be triable by any competent authority inferior to that of a Judicial Magistrate of the First Class.

Explanation I.—In this section, essential supply or service includes the supply of water, electricity, lights in passages and on stair-cases, and lifts and conservancy or sanitary services.

Explanation II.—For the purpose of this section, withholding any essential supply or service shall include acts or omissions attributable to the manager on account of which the essential supply or service is cut off by the local authority or any other competent authority.

20. *Registers to be maintained by competent authority.*—The competent authority shall maintain such registers as may be prescribed showing sufficient particulars of all cases in which licence is granted or refused by him and the said registers shall be available for inspection without charges by all interested persons and such persons shall be entitled to have extracts therefrom.

21. *[Competent authority empowered to inspect accounts maintained by promoter] Submission of Audited Accounts by the Promoter.*—[(1) The competent authority or any other officer authorised by it in this behalf, shall be competent to inspect the accounts maintained by the promoter who shall produce before him all the relevant records required for this purpose.]

[(2)] The promoter shall get his accounts audited, after the close of every financial year by a chartered accountant and shall produce a statement of

accounts duly certified and signed by such chartered accountant in the manner prescribed to the competent authority.

22. *No flat[/plot] to be transferred or no building to erected without licence.*—No promoter shall—

(i) without obtaining a licence under section 3, transfer or agree to transfer in any manner flat [or plot] or make an advertisement or receive any amount in respect thereof;

(ii) erect or re-erect any building in respect of which a licence under section 3 has not been granted.

23. *Power to cancel the licence for contravention of the condition of licence.*—(1) A licence granted under this Act, shall be liable to be cancelled by the competent authority if the promoter contravenes any of the conditions of the licence or the provisions of this Act or the rules made thereunder:

Provided that before such cancellation the promoter shall be given an opportunity of being heard.

(2) After cancellation of the licence, the Government may, if it deems expedient, acquire the land and building, if any, under the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894), and may develop it in accordance with any other law. If structure exists on land, it may be acquired by the Government after payment of a reasonable compensation.

(3) The Government may, while allotting flats in the land and building so acquired [and developed] give preference to the flat [or plot] buyers in the manner prescribed.

24. *Offences by promoter.*—Any promoter who, without reasonable excuse, fails to comply with or contravenes any provision of this Act or of any rule made thereunder or any of the conditions of the licence granted under section 3, shall where no other penalty is expressly provided for, on conviction, be punished with imprisonment or a term which may extend to one year or with fine which may extend to two thousand rupees or with both; and a promoter who commits criminal breach of trust of any amounts advanced or deposited with him for the purposes mentioned in section 11 shall, on conviction be punished with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

25. *Cognizance of offences.*—(1) No court inferior to that of a Judicial Magistrate of the First Class shall try any offence under the Act.

26. *Appeal.*—Any person aggrieved by any order of the competent authority under this Act may, within a period of thirty days of the communication

of the order to him prefer an appeal to the Goa Cooperative Tribunal constituted under the Maharashtra Cooperative Societies Act, 1960 (Maharashtra Act 74 of 1961) as applied to the State of Goa and in such form and manner as may be prescribed:

Provided that the appeal may be entertained after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the Tribunal hearing an appeal under the Act shall exercise all powers conferred upon an appellate Court by section 97 and Order XLI in the First Schedule of the Code of Civil Procedure, 1908 (Central Act V of 1908).

27. *Delegation.*—The Government may, by notification direct that the powers exercisable by it under the provision of this Act, except under section 29 shall, in such circumstances and under such conditions as may be specified therein, be exercised also by an officer subordinate to it.

28. *Power to exempt.*—If the Government is of the opinion that the operation of any of the provisions of this Act causes undue hardship or if circumstances exist which render it expedient so to do, may exempt any person or persons or association of persons from all or any of the provisions of the Act.

29. *Power to make rules.*—(1) The Government, may, subject to the conditions of previous publication, by notification in the Official Gazette, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the particulars to be contained in the application for licence to be submitted by the promoter and the fees to be charged for grant/renewal of licence and the form in which licence shall be given;

(b) the particulars to be contained in the agreement for sale and the documents or copies thereof to be attached to such agreement;

(c) the authority to whom the prospectus, advertisement or notice is to be submitted;

(d) the period within which the promoter shall execute the conveyance of the flat [or plot of land];

(e) the registers to be maintained by the promoter;

(f) the manner in which accounts are to be maintained by the promoters;

(g) Any other matter which has to be, or may be prescribed.

30. *Provisions of this Act to have overriding effect.* — The provisions of this Act, except where otherwise provided, shall be in addition to the provisions of the Transfer of Property Act, 1882 (Central Act 4 of 1882), and shall take effect notwithstanding anything to the contrary contained in any contract.

31. *Act not to apply to Housing Board and Planning and Development Authority.* — Nothing in this Act shall apply to the Goa, Daman and Diu Housing Board constituted under [section 4 of] the Goa, Daman and Diu Housing Board Act, 1968, (Act 12 of 1968) and Planning and Development Authority established under the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act No. 21 of 1975).